

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BRIAN FEINZIMER,

Plaintiff,

- against -

FOX NEWS NETOWRK, LLC

Defendant.

Docket No. 1:21-cv-06514

**COMPLAINT**

Plaintiff Brian Feinzimer (“Feinzimer” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Fox News Network, LLC (“Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted video of a Black Lives Matter protester. The video is owned and registered by Feinzimer, a California-based videographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Feinzimer is a videographer having a usual place of business at 8716 El Arco Drive, Whittier, California 90603.

6. Upon information and belief, Defendant is a foreign limited liability company duly organized and existing under the laws of Delaware with a principal place of business at 1211 Avenue of the Americas, 2d Floor, New York, NY 10036.

7. At all times material hereto, Defendant has owned and operated a website at the URL: [www.foxnews.com](http://www.foxnews.com) (the “Website”).

8. At all times material hereto, Defendant has owned and operated a cable news channel called Fox News which airs a prime-time program entitled “Tucker Carlson Tonight” (the “Program”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

9. Feinzimer took a video of a Black Lives Matter protester in Los Angeles urging his supporters to defund the police (the “Video”). The Video is approximately 17 seconds in duration. A true and correct copy of a screenshot from the Video is attached hereto as Exhibit A.

10. On June 2, 2020, Feinzimer then uploaded the Video to his Twitter account. A true and correct copy of a screenshot of Feinzimer’s Twitter account showing the Video is attached hereto as Exhibit B.

11. Feinzimer is the author of the Video and has at all times been the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

12. The Video was registered with the U.S. Copyright Office and was given Copyright Registration Number PA 2-249-602, effective as of July 12, 2020 (the “602 Registration”). A true and correct copy of the 602 Registration is attached hereto as Exhibit C.

**B. Defendant’s Infringing Activities**

13. On or about June 4, 2020, Defendant published approximately eleven seconds of the Video during the primetime cable broadcast of the Program, as well as in an article on the Website entitled “*Tucker Carlson: Is America being torn apart by a total, complete – but provable – lie?*” See URL <https://www.foxnews.com/opinion/tucker-carlson-is-america-being-torn-apart-by-a-total-complete-but-provable-lie> (the “Infringing Article”). Screenshots of the Infringing Article displaying the Video is attached hereto as Exhibit D.

14. Defendant did not license the Video from Plaintiff for its Website article or Program, nor did Defendant have Plaintiff’s permission or consent to publish the Video on the Program or on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT)**  
(17 U.S.C. §§ 106, 501)

15. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-14 above.

16. Defendant infringed Plaintiff’s copyright in the Video by reproducing and publicly displaying the Video on the Website.

17. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Video.

18. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

19. Upon information and belief, the foregoing acts of infringement by Defendant have been willful or in reckless disregard of Plaintiff's rights.

20. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

21. Alternatively, Plaintiff is entitled to statutory damages for Defendant's willful infringement of the Photograph pursuant to 17 U.S.C. § 504(c).

22. Plaintiff is further entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

23. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: (a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or (b) alternatively, statutory damages per copyrighted work infringed pursuant to 17 U.S.C. § 504;

3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: New Rochelle, New York  
August 1, 2021

LIEBOWITZ LAW FIRM, PLLC

By: /s/jameshfreeman  
James H. Freeman  
1333A North Ave., Ste. 762  
New Rochelle, New York 10804  
Tel: (516) 233-1660  
JF@LiebowitzLawFirm.com

*Attorneys for Plaintiff*